

CHAPTER 1  
ADMINISTRATION

MISSION STATEMENT

The department of inspections and appeals maintains integrity in state or federal programs and operations through audits, investigations, inspections of designated programs, and through impartial hearings of contested administrative actions to ensure compliance with laws, rules and regulations.

**481—1.1(10A) Organization.**

**1.1(1)** The Iowa department of inspections and appeals was established by Iowa Code sections 10A.101 to 10A.601. The chief executive officer of the department is the director of the department of inspections and appeals who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

**1.1(2)** The director is assisted by a deputy director who is appointed by the director of inspections and appeals.

**1.1(3)** The department is organized into divisions which are further divided into bureaus and sections.

**1.1(4)** The director has general supervision over the administration and operation of all divisions. The director also develops statewide programs in compliance with the goals of the department.

**1.1(5)** The deputy director serves as the principal deputy to the director to assist in the development, implementation, or revision of the policies affecting overall operations and relationships in the agency; confers with staff department heads regarding the progress and problems of specific programs and operations for which they are responsible; reviews activities, reports and records, and determines conformity with policies and procedures and the need for improvements or revisions; determines and ensures that policy required by changes in the law or director action are executed, reports findings and submits recommendations to the director for approval or subsequent actions; supervises divisions requiring administrative coordination, and supervises general administrative matters. The deputy director represents the director in various capacities as directed.

**1.1(6)** Issuance of subpoenas. The director, or designee of the director, shall have the authority to issue subpoenas in accordance with the provisions of Iowa Code sections 10A.104(6) and 17A.13. In connection with audits, appeals, investigations, inspections, hearings, and any other permissible matters conducted by the department, the director, or designee of the director, may, upon the written request of a department employee or on the director's own initiative:

*a.* Issue subpoena duces tecum for the production and delivery of books, papers, records and other real evidence; and

*b.* Issue subpoenas for the appearance of persons to provide statements, statements under oath and depositions.

**1.1(7)** Contents of subpoenas. Each subpoena shall contain the following:

*a.* The name and address of the person to whom the subpoena is directed;

*b.* The date, time and location for the appearance of the person;

*c.* A description of the books, papers, records or other real evidence requested;

*d.* The date, time and location for production, inspections, or copying of the books, papers, records or other real evidence;

*e.* The signature and address of the director or designee;

*f.* The name, address and telephone number of a department employee who can be contacted for purposes of providing clarification or assistance in compliance with the subpoena;

*g.* The date of issuance; and

*h.* A return of service.

**1.1(8)** Motions to quash or modify subpoena. A person who desires to challenge a subpoena directed to that person must, within ten days after service of the subpoena, or before the time specified for compliance, if such time is less than ten days, file with the director a motion to quash or modify the

subpoena. Upon receipt of a timely motion to quash or modify a subpoena, the director may issue a decision or request an administrative law judge to issue a decision. Oral argument may be scheduled and conducted at the discretion of the director or administrative law judge. The director or the administrative law judge may quash or modify the subpoena, deny the motion, or issue other appropriate orders. A person aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the director by serving the director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge. The director's decision is final for purposes of judicial review.

**1.1(9)** Failure to comply with subpoena. If the person to whom the subpoena is directed refuses or fails to obey the subpoena, the director, or the director's designee, may cause a petition to be filed in the Iowa district court seeking an order for the person's compliance. Failure to obey orders of that court shall render the person in contempt of the court and subject to penalties provided for that offense.

**481—1.2(10A) Definitions.** For rules of the department of inspections and appeals[481], the following definitions apply:

*"Department"* means the department of inspections and appeals.

*"Department of human services"* is referred to as DHS.

*"Director"* means the director of the department.

**481—1.3(10A) Audits division.** This division conducts audits, except those conducted by the state auditor's office, including but not limited to the following:

1. Audits of real estate broker trust accounts.
2. Audits relative to the administration of hospitals and health care facilities.
3. Audits relative to the administration and disbursement of funds under the state supplemental assistance program and the state medical assistance program.
4. Audits relative to the administration and disbursement of funds from the energy research and development fund designated for the weatherization program or the energy assistance program.

**481—1.4(10A) Investigations division.** This division conducts investigations including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.
2. Investigations relative to proposed sales within the state of subdivided land situated outside of the state.
3. Investigations relative to applications for beer and liquor licenses.
4. Investigations relative to the liquidation of overpayment debts owed to the department of human services.
5. Investigations relative to the operations of the department of elder affairs.
6. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, and the family investment program.
7. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

**481—1.5(10A) Inspections division.** This division conducts inspections including but not limited to the following:

1. Licensing procedures related to social and charitable gambling pursuant to Iowa Code chapter 99B.
2. Food establishments, including groceries, restaurants, hotels, food and beverage vending machines, state educational or charitable institutions for licensing determination, and sanitation inspections in any locality of the state upon the written petition of five or more residents of a particular locality. Correctional and penal institutions are also inspected for sanitary conditions.

**481—1.6(10A) Administrative hearings division.** This division conducts hearings including but not limited to the following:

1. Hearings and appeals relative to foster care facilities, child day care facilities, administration of the state medical assistance program, administration of the state supplementary assistance program, administration of the food stamp program, and administration of the family investment program and other programs administered by the department of human services. Decisions of the division in these areas are subject to review by the department of human services.

2. Hearings and appeals relative to occupational safety and health regulations and the state elevator code. Decisions of the division in these areas are subject to review by the employment appeal board.

3. Hearings and appeals relative to administration of the department of general services. Decisions of the division in this area are subject to review by the department of general services.

4. Hearings and appeals relative to administration of the department of transportation. Decisions of the division in this area are subject to review by the department of transportation.

5. Appeals relative to professional and occupational license denials, suspensions, revocations, and other matters involving professional and occupational discipline except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.

Judicial review of the division's actions in these areas may be sought in accordance with the terms of Iowa Code chapter 17A.

6. Hearings and appeals relative to administration of the department of elder affairs. Decisions of the division in this area are subject to review by the department of elder affairs.

7. Hearings and appeals relative to the licensure or certification of hospitals, hospices, and health care facilities. Decisions of the division in this area are subject to review by the department of inspections and appeals.

8. Hearings and appeals relative to the administration of the department of public health. Decisions of the division in this area are subject to review by the department of public health.

9. Hearings and appeals relative to administration of the department of public safety. Decisions of the division in this area are subject to review by the department of public safety.

10. Hearings and appeals relative to the administration of the department of personnel except those cases within the jurisdiction of the public employment relations board. Decisions of the division in this area shall be determined by the employment appeal board, and the appeal board's decisions shall be considered final agency action under Iowa Code chapter 17A, except for reduction in force appeals which shall be subject to review by the director of the department of personnel.

11. Hearings and appeals relative to the administration of the department of cultural affairs. Decisions of the division in this area are subject to review by the department of cultural affairs.

12. Hearings and appeals relative to administration of the department of natural resources. Decisions of the division in this area are subject to review by the department of natural resources.

13. The administrator shall coordinate the division's conduct of all nonstatutory administrative hearings and appeals provided for in the Iowa administrative code and bulletin.

**481—1.7(10A) Administering discretion.** Nothing in the aforesaid allocation of duties shall be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the director of the department of inspections and appeals.

**481—1.8(10A) Employment appeal board.** The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 19A, 80, 88, 96, 97B and 104 in accordance with administrative rules promulgated by the employment appeal board.

**481—1.9(10A) Foster care review board.** The foster care review board consists of seven members appointed by the governor, subject to confirmation by the senate.

This board administers foster care review programs as defined in Iowa Code section 237.19, in accordance with administrative rules promulgated by the foster care review board.

**481—1.10(10A) The state appellate defender.** The state appellate defender is appointed by the governor and represents indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed by the district court which issued the judgment or order.

**481—1.11(10A) Hospital licensing board.** This board consists of five individuals who have recognized ability in the field of hospital administration. They are appointed by the governor. The hospital licensing board consults and advises the department of public health on matters of policy affecting Iowa Code chapter 135B. The board reviews and approves rules and standards for the implementation of chapter 135B before they are reviewed and approved by the department of public health and adopted by the department of inspections and appeals.

**481—1.12(10A) Health facilities division.** This division conducts inspections and investigations including but not limited to the following:

1. Investigations relative to the standards and practices of hospitals, hospices, and health care facilities.
2. Inspections and other licensing procedures relative to the hospice program, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.
3. Inspections relative to hospital and health care facility construction projects.
4. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.

These rules are intended to implement Iowa Code sections 10A.104 and 17A.3(1), paragraph “a,” and Iowa Code Supplement section 10A.106 as amended by 2000 Iowa Acts, Senate File 2390, section 2.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed without Notice 3/26/87—published 4/22/87, effective 5/27/87]

[Filed 9/18/87, Notice 7/15/87—published 10/7/87, effective 11/11/87]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed 9/1/00, Notice 7/26/00—published 9/20/00, effective 10/25/00]

[Filed 4/26/02, Notice 3/20/02—published 5/15/02, effective 6/19/02]